

2876.4113 FINANCIAL REPORTING REQUIREMENTS FOR INVESTMENT ADVISERS.

Subpart 1. **Custody.** Every investment adviser, registered or required to be registered, who has custody of client funds or securities or requires payment of advisory fees six months or more in advance and in excess of \$500 per client shall first have filed with the administrator an audited balance sheet as of the end of the investment adviser's most recent fiscal year if the filing is submitted more than 135 days after the last day of the investment adviser's most recent fiscal year. If the filing is submitted within 135 days after the last day of the investment adviser's most recent fiscal year, then the investment adviser shall file with the administrator an audited balance sheet as of the end of the investment adviser's second most recent fiscal year. Each balance sheet filed pursuant to this part must be:

A. examined in accordance with generally accepted auditing standards and prepared in conformity with generally accepted accounting principles;

B. audited by an independent certified public accountant; and

C. accompanied by an opinion of the accountant as to the report of financial position, and by a note stating the principles used to prepare it, the basis of included securities, and any other explanations required for clarity.

Subp. 2. **Discretionary authority.** Every registered investment adviser who has discretionary authority over client funds or securities, but not custody, shall first have filed with the administrator a balance sheet, which need not be audited, but which must be prepared in accordance with generally accepted accounting principles or such other basis of accounting acceptable to the administrator and represented by the investment adviser or the person who prepared the statement as true and accurate, as of the end of the investment adviser's most recent fiscal year for which a balance sheet has been prepared.

Subp. 3. **Filing deadline.** If the balance sheet required to be filed under subpart 1 or 2 is as of a date more than 135 days from the date of filing of the application, then an audited or unaudited balance sheet that is as of a date within 135 days from the date of filing of the application must also be filed with the administrator.

Subp. 4. **Out-of-state investment advisers.** Every investment adviser that has its principal place of business in a state other than this state shall file only such reports as required by the state in which the investment adviser maintains its principal place of business, provided the investment adviser is registered or licensed in such state and is in compliance with such state's financial reporting requirements.

Statutory Authority: *MS s 45.023; 80A.82*

History: *34 SR 593*

Published Electronically: *November 23, 2009*